IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.4405 OF 2003

IN

FIRST APPEAL st NO.39315 OF 2003

New India Assurance Co.Ltd. ... ..Petitioner

Versus

Smt. Dhakubai Yeshwant Khandagale & Ors...Respondents

Snmt. D.S.Shah with D.B.Gupta for petitioners

CORAM : S.B.DESHMUKH, J.

DATE : 20TH SEPTEMBER, 2006

P.C.:

1. Heard the learned counsel for the petitioners. None appears for the respondents. The Respondent nos.2 and 3 have been deleted as per the order passed by this Court on 3.11.2004.

2. By this application the petitioners are seeking condonation of delay to the extent of 5 months and 24 days in filing the appeal in this Court.

3. In para 5 of the application the applicant has disclosed the cause of the impugned judgment. The advocate for the petitioners was instructed to file the appeal in this Court however, on account of personal difficulty the advocate for the petitioners could not file an appeal in this court within a period of limitation. The appeal is only filed on 8th October, 2003. In the circumstances, there is delay of 5 months and 24 days in filing the appeal. The learned advocate for the petitioners submits that no reply is filed on behalf of the respondents. The statement made in para 5 and in the absence of any reply, needs to be accepted. I am satisfied that the petitioners were prevented from sufficient reason and therefore, delay is occurred. The delay is condoned. The Civil application is accordingly allowed and disposed of. Place the matter for admission on 12.10.2006.

(S.B.Deshmukh,J.)